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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
NEUMANN

Serial No.: 10/741,328

Filing Date: December 19, 2003

Attorney Docket No.: NEU-108

Title: CAPSICUM BASED
SEED COATING AND
METHOD OF USE

TRANSMITTAL

Date Mailed: February 4, 2005

Examiner: GELLNER, Jeffrey L.

Group Art Unit: 3643

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL

Dear Sir:

Enclosed please find the following documents related to the above-entitled patent application:

1. RESTRICTION ELECTION: 5 page(s); and
2. Return Receipt Postcard.

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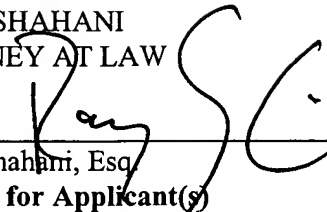
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Page 1 of 2

Respectfully submitted,

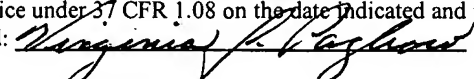
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Dated: February 4, 2005

By: 
Ray K. Shahani, Esq.
Attorney for Applicant(s)

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CERTIFICATE OF MAILING

I hereby certify that this paper and the documents attached hereto are being deposited in a postage prepaid, sealed envelope with the United States Postal Service using First Class Mail service under 37 CFR 1.08 on the date indicated and is addressed to "Commissioner For Patents, Virginia 22313-1450". Signed: 
Date Mailed: February 4, 2005

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Filing Date: December 19, 2003

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Title: **CAPSICUM BASED SEED COATING AND METHOD OF USE**

Serial No.: 10/741,328

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Examiner: GELLNER, Jeffrey L.

Group Art Unit: 3643

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESTRICTION ELECTION

Dear Sir:

Applicant is in receipt of the OFFICE ACTION mailed January 14, 2005. Thank you for your expedient attention to these matters.

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SUMMARY OF RESPONSE

DETAILED ACTION

1. The Examiner states: "The reply filed on 27 December, 2004 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s):

Applicant was required, in the office action paper no. 11172004, to response to a requirement for an election of species. Applicant's response, received 27 December, 2004, did not include an election. Applicant is required under 37 CFR 1.143 to elect even though the requirement is traversed. An amendment to the claim language does not negate the requirement for Applicant to elect among the species."

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RESTRICTION/ELECTION

Applicant hereby elects prosecution of the invention of Species II (as defined by Examiner's Election/Restriction Requirement dated 11/22/2004) and all of the Claims as originally presented and amended throughout, with traverse.

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CONCLUSION

Applicant respectfully submits that for all the foregoing reasons, the claimed subject matter describes patentable invention. Furthermore, Applicant submits that the specification is adequate and that the claims are in a condition for allowance. No new matter has been entered.

Applicant hereby respectfully requests Examiner to enter these amendments, find them descriptive of useful, novel and non-obvious subject matter, and authorize the issuance of a utility patent for the truly meritorious, deserving invention disclosed and claimed herein.

Without further, Applicant does not intend to waive any claims, arguments or defenses that they may have in response to any official or informal communication, paper, office action, or otherwise, and expressly reserves the right to assert any traverse, additional grounds establishing specificity and clarity, enablement, novelty, uniqueness, non-obviousness, or other patentability, etc.

Further, nothing herein shall be construed as establishing indirectly the basis for any prosecution history, file wrapper estoppel, or similar in order to limit or bar any claim of infringement of the invention described herein, either directly or under applicable doctrine of equivalents.

///

Respectfully submitted,

RAY K. SHAHANI
ATTORNEY AT LAW

Dated: February 4, 2005

By: _____

Ray K. Shahani, Esq.

Attorney for Applicant(s)

Ray K. Shahani, Esq.

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Date Mailed: February 4, 2005 .